

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 05-CA-302762	Date Filed 8/18/2022

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer American Civil Liberties Union		b. Tel. No. 212-549-2674
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 915 15th Street NW Washington, DC 20005	e. Employer Representative Terence Dougherty, Deputy Executive Director and General Counsel	g. e-mail tdougherty@aclu.org
		h. Number of workers employed 320
i. Type of Establishment (factory, mine, wholesaler, etc.) Legal	j. Identify principal product or service Legal Advocacy	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since about (b) (6), (b) (7)(C), 2022, the above-named employer has failed or refused to bargain in good faith with the union as the exclusive collective bargaining representative of its employees by failing or refusing to provide notice and opportunity to bargain prior to the imposition of discretionary discipline when it discharged its employee (b) (6), (b) (7)(C).

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Nonprofit Professional Employees Union, IFPTE Local 70

4a. Address (Street and number, city, state, and ZIP code) 1225 Eye Street NW Suite 600 Washington, DC 20005	4b. Tel. No. 619-755-7524
	4c. Cell No.
	4d. Fax No.
	4e. e-mail esparaco@npeu.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
International Federation of Professional & Technical Engineers, AFL-CIO, CLC

6. DECLARATION

I declare that I have read the above charge and that the statements
are true to the best of my knowledge and belief.

Tel. No.
202-236-7259

Office, if any, Cell No.

Fax No.

e-mail
rickbial@gmail.com

Richard Bialczak

(signature of representative or person making charge)

(Print/type name and title or office, if any)

48-18 Van Dam Street
Address Long Island City, NY 11101

Date 08/18/2022

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, STE 600
BALTIMORE, MD 21201

Agency Website: www.nlrb.gov
Telephone: (410)962-2822
Fax: (410)962-2198



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September 7, 2022

Ms. Emiliana Sparaco
National Field Director
Nonprofit Professional Employees Union,
IFPTE Local 70
1225 Eye Street, N.W., Suite 600
Washington, DC 20005

Re: American Civil Liberties Union
Case 05-CA-302762

Dear Ms. Sparaco:

The charge that you filed in this case on August 18, 2022, has been docketed as case number 05-CA-302762. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410)962-2915. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410)962-2916.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sean R. Marshall". The signature is fluid and cursive, with the first name "Sean" and last name "Marshall" clearly distinguishable.

Sean R. Marshall
Regional Director

cc: Richard J. Bialczak, Esq.
International Federation of Professional
& Technical Engineers, AFL-CIO, CLC
48-18 Van Dam Street, Floor 2
Long Island City, NY 11101



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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NLRB
Mobile App

September 7, 2022

Terence Dougherty, Esq.
Deputy Executive Director
American Civil Liberties Union
915 15th Street, N.W.
Washington, DC 20005

Re: American Civil Liberties Union
Case 05-CA-302762

Dear Mr. Dougherty:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Barbara Duvall whose telephone number is (410)962-2915. If this Board agent is not available, you may contact Supervisory Field Attorney Patrick J. Cullen whose telephone number is (410)962-2916.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Sean R. Marshall".

Sean R. Marshall
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 05-CA-302762
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN CIVIL LIBERTIES UNION

Charged Party

and

NONPROFIT PROFESSIONAL EMPLOYEES
UNION, IFPTE LOCAL 70

Charging Party

Case 05-CA-302762

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on **September 7, 2022**, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Terence Dougherty, Esq.
Deputy Executive Director
American Civil Liberties Union
915 15th Street, N.W.
Washington, DC 20005

September 7, 2022

Date

Monica Graves
Designated Agent of NLRB

Name

Monica Graves

Signature



950 THIRD AVENUE • FOURTEENTH FLOOR
NEW YORK, NY 10022

KENNETH A. MARGOLIS
DIRECT DIAL: (212) 909-0705
DIRECT FAX: (212) 909-3505
MARGOLIS@KMM.COM

TELEPHONE (212) 644-1010
FAX (212) 644-1936

NEW YORK
LOS ANGELES
WWW.KMM.COM

April 6, 2023

Via E-Filing

Hon. Sean R. Marshall
Regional Director - Region 5
National Labor Relations Board
Bank of America Center, Tower II
100 S. Charles Street, Ste 600
Baltimore, MD 21201

Re: American Civil Liberties Union
Case 05-CA-300367
Case 05-CA-302762
KM&M File No. 00186-8387

Dear Mr. Marshall:

This firm represents the American Civil Liberties Union (“ACLU”). We write respectfully to request an adjournment of the hearing scheduled for July 18, 2023. This is the first such request for an adjournment.

An adjournment is required because, as lead counsel for the ACLU, I am unavailable to appear on the scheduled hearing dates. I am required to be traveling in connection with an important family event during the week of the scheduled hearing and the entire following week. This event and associated travel involves a large number of people who have purchased non-refundable airline tickets and the event is of such a nature that it cannot be rescheduled under any circumstances. I have been the primary attorney with respect to all labor matters on behalf of the ACLU for over 20 years and I am the only attorney in this firm with the necessary knowledge of this matter to represent the ACLU at this hearing; it is therefore impossible for the hearing to proceed in my absence.

With respect to a proposed new hearing date, we would note that proceeding during the month of August would be difficult or impossible for the ACLU because of scheduled and anticipated vacations for various representatives of the ACLU involved in the conduct of the hearing, either as witnesses or members of the legal team.

Hon. Sean R. Marshall
April 6, 2023
Page 2

Accordingly, we respectfully request that the hearing be scheduled to proceed beginning on or after September 13, 2023.

We have informed Rick Bialczak, Esq., counsel for the Charging Party, of our intention to seek an adjournment and of our proposed hearing dates, and he has advised us that the Charging Party has no objection.

Thank you for your consideration.

Very truly yours,

/s/ Kenneth A. Margolis

Kenneth A. Margolis

cc: Rick Bialczak, Esq.
Katherine Leung, Esq.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

AMERICAN CIVIL LIBERTIES UNION, INC.

and

Cases 05-CA-300367
and
05-CA-302762

NONPROFIT PROFESSIONAL EMPLOYEES
UNION (NPEU), INTERNATIONAL FEDERATION
OF PROFESSIONAL & TECHNICAL ENGINEERS
(IFPTE) LOCAL 70 A/W INTERNATIONAL
FEDERATION OF PROFESSIONAL & TECHNICAL
ENGINEERS, AFL-CIO, CLC

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter be, and the same hereby is, rescheduled from July 18, 2023, to August 15, 2023, at 10:00 a.m., and on consecutive days thereafter until at Jones-Laughlin Conference Room 3054, 1015 Half Street SE, Washington, D.C. 20570.

Dated at Baltimore, Maryland this 28th day of April 2023.

(SEAL)

/s/ Sean R. Marshall

Sean R. Marshall, Regional Director
National Labor Relations Board, Region 5
Bank of America Center - Tower II
100 South Charles Street, Suite 600
Baltimore, Maryland 21201